

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

In re: Gold King Mine Release in San Juan
County, Colorado on August 5, 2015

No. 1:18-md-02824-WJ

This Document Relates to:

No. 16-cv-465-WJ/LF

No. 16-cv-931-WJ/LF

No. 18-cv-319-WJ

KINROSS GOLD CORPORATION’S MOTION FOR ENTRY OF JUDGMENT

Defendant Kinross Gold Corporation (“KGC”) hereby moves for Entry of Judgment on all claims asserted against it by the United States, and states as follows:

In its May 3, 2021 Order (Doc. 1177), the Court granted KGC’s motion for summary judgment, “concluding that Kinross is not subject to personal jurisdiction in New Mexico.” Order, 10-4-21, Doc. 1368, p. 2 (citing Doc. 1177, p. 3). The May 3, 2021 Order also allowed the United States 21 days to file a motion to determine whether the Court has personal jurisdiction over Kinross Gold Corporation pursuant to Fed. R. Civ. P. 4(k)(2). The United States filed its motion on May 24, 2021, and the Court has now concluded that the United States has failed to establish that KGC is subject to jurisdiction under Rule 4(k)(2). *See* Order, Doc.1368, p. 8 (holding that “the United States has not met its burden” under the summary judgment standard and that “Rule 4(k)(2) is not applicable to Kinross....”).

In light of the Court’s conclusions that KGC is not subject to personal jurisdiction in New Mexico, or to jurisdiction under Rule 4(k)(2), KGC hereby moves for entry of judgment pursuant to Fed. R. Civ. P. 58(d) (“A party may request that judgment be set out in a separate document as required by Rule 58(a).”); *Warren v. Am. Bankers Ins.*, 507 F.3d 1239, 1243 (10th Cir. 2007)

(holding that parties may request a district court to enter a separate judgment under Fed. R. Civ. P. 58(d) in order to resolve the case and avoid confusion). Entry of judgment is appropriate here because, as the Court has recognized, personal jurisdiction over KGC simply does not exist in this Court.

D.N.M.LR-Civ. 7.1(a) CERTIFICATION

In accordance with D.N.M.LR-Civ. 7.1(a), KGC's counsel has conferred through email with counsel for the United States, and thereby confirmed that this motion is opposed.

CONCLUSION

For these reasons, KGC respectfully requests that this Court enter judgment in its favor and against the United States on the United States' causes of action, for KGC's costs and recoverable expenses, and for such other and further relief as the Court may deem just.

Respectfully,

HOLLAND & HART LLP

/s/ Bradford C. Berge

Bradford C. Berge

Jules Angelley

P. O. Box 2208

Santa Fe, NM 87504-2208

TEL: 505-988-4421

FAX: 505-983-6043

bberge@hollandhart.com

jeangelley@hollandhart.com

/s/ Craig D. Galli

Craig D. Galli

222 South Main, Suite 2200

Salt Lake City, UT 84101

TEL: (801) 799-5842

FAX: (866) 784-7734

cgalli@hollandhart.com

*Attorneys for Defendants Kinross Gold U.S.A., Inc.
and Kinross Gold Corporation*

CERTIFICATE OF SERVICE

I hereby certify that on the 13th of October 2021, the foregoing was filed via the U.S. District Court of New Mexico's CM/ECF electronic filing system and a copy thereof was served via CM/ECF upon all counsel of record.

/s/ Bradford C. Berge
Bradford C. Berge

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